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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/791,306	03/02/2004	Timothy S. O'Callaghan	087801-9033-00	3517
23409	7590	03/02/2006	EXAMINER	
MICHAEL BEST & FRIEDRICH, LLP			EDEL, JOSEPH F	
100 E WISCONSIN AVENUE			ART UNIT	
MILWAUKEE, WI 53202			PAPER NUMBER	
			3636	

DATE MAILED: 03/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/791,306	Applicant(s) O'CALLAGHAN ET AL.	
	Examiner Joseph F. Edell	Art Unit 3636	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 November 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☒ Claim(s) 16-19 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner. *W. J. Edell*
- 10) ☒ The drawing(s) filed on 02 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

1. Claim 1 is objected to because of the following informalities: "when the seat is in the unlatched condition" (lines 10-11) should read --when in the unlatched condition-- because only the user-manipulated control is recited as having an unlatched condition wherein the vehicle seat has no such recitation. Appropriate correction is required.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 6 and 13-19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 6 recites "the user-manipulatable control biased toward the first position when moved toward the third position." Claim 13 recites "the biasing member not biasing the user-manipulatable control toward the first position when the user-manipulatable control is in the third position." Therefore, it is unclear whether the control is biased or unbiased toward the first position when moved to the third position.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

Art Unit: 3636

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-15, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No 5,855,414 to Daniel et al.

Daniel et al. disclose a seat latch that includes all the limitations recited in claims 1-15, as best understood. Daniel et al. shows a seat latch having a frame 1, 2 (see Fig. 1) connectable to one of a vehicle seat and a vehicle, a user-manipulate control 4 supported by the frame, a ratchet 3 coupled to the control, and a striker 21,22 selectively engagable with the ratchet wherein the control is capable of operating to facilitate movement of the seat latch between a latched condition (Fig. 2) in which a part of the vehicle seat is secured against movement and an unlatched condition (Fig. 5) in which the part of the vehicle seat is movable, the control is retained in at least one position when in the unlatched condition, and the control provides a visual indication that the seat latch is not in the latched condition (see column 5, lines 55-57) by at least one surface of the control being hidden from view and providing a visible indicator by a brightly colored surface only visible when the seat latch is in the unlatched condition, the ratchet is releasably engaged with the striker in the latched condition to prevent movement of the ratchet relative to the striker, the ratchet is disengagable from the striker in the unlatched condition to facilitate movement of the striker relative to the ratchet, the control movable between a first position (Fig. 2) and a second position (Fig. 5), the control movable toward the second position to place the seat latch in the

unlatched condition, and the control biased via spring 50 toward the second position when the seat latch is in the unlatched condition.

Please note that claim recitations toward features of the vehicle and the vehicle seat are regarded as intended use of the claimed invention which do not patentably distinguish the claimed invention from Daniel et al. because the structure of Daniel et al. is capable of performing the intended use and no structural differences exist between the claimed invention and Daniel et al.

With respect to the control actuation facilitating movement of a seat back of the vehicle seat, the control is capable of operating to facilitate movement of a seat back of the vehicle seat between a plurality of recline positions (seat back frame 11 pivots between recline positions to the position shown in Fig. 2), the control is movable along a first path (downward movement between Figs. 2 and 3) to release the seat latch from the latched position to the unlatched position and along a second path (upward movement between Figs. 4 and 5) in and out of a reclining condition of the seat latch such that the seat back is *capable* of reclining but not affecting the latched and unlatched conditions,

With respect to claims 13-15, the seat latch has a biasing member 30 coupled to the control to bias the control to a first position (Fig. 2) when the control is in a second position (Fig. 3) and not biasing the control toward the first position when the control is in a third position (Fig. 5). The control protrudes from the housing when in the third position and does not protrude from the housing when in the first position.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 20-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,828,213 to Saito et al.

Saito et al. disclose a seat having a user-manipulatable control 11 (see Fig. 5) being actuatable in a first manner by pulling to release a latch 12 from a striker 10 and to enable movement of a vehicle seat 1 (Fig. 1) with respect to a vehicle, the latch provides a visual indicator that the latch is in an unlatched condition when the latch is released from the striker, the control being actuatable in a second manner by pushing to recline the seat (Fig. 8), and the latch captures the striker. Saito et al. disclose all of the claimed structure of claims 20-22 and lack only the specifically recited method steps. Therefore, it would have been obvious, if not inherent, to one having ordinary skill in the art at the time the invention was made to use the seat of Saito et al. by the claimed method steps. Such a modification provides a conventional and efficient method of using the seat of Saito et al.

Allowable Subject Matter

8. Claims 16-19 are objected to as being dependent upon a base claim rejected under 35 U.S.C. 112, 2nd paragraph, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.


Response to Arguments

9. Applicant's arguments with respect to claims 1, 9, 13, and 20 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph F. Edell whose telephone number is (571) 272-6858. The examiner can normally be reached on Mon.-Fri. 8:30am-5:00pm.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Joe Edell
February 23, 2006